

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT KOLINEK, Individually And On Behalf
Of All Others Similarly Situated,

Plaintiff,

vs.

WALGREEN CO., an Illinois Corporation,

Defendant.

Case No. 13-cv-04806

Honorable Matthew F. Kennelly,
District Judge

**DEFENDANT'S UNOPPOSED MOTION
FOR BRIEF ADJOURNMENT OF FINAL APPROVAL HEARING**

Defendant Walgreen Co. ("Defendant"), by and through undersigned counsel, hereby moves for a one or two-week adjournment of the hearing to consider final approval of the proposed class action settlement in this matter, due to an injury sustained by Defendant's lead counsel requiring prompt surgery. In support of this motion, Defendant states as follows:

1. On April 3, 2015, the Court granted preliminary approval to the proposed class action settlement. (Doc. # 97). The Preliminary Approval Order scheduled the hearing to consider final approval for August 5, 2015, at 9:30 a.m., "or at such other date and time later set by Court Order." *Id.* at ¶ 6.

2. Members of the proposed settlement class were notified that the date of the final approval hearing could be adjourned by the Court. The settlement website addresses "When and where will the Court hold a hearing on the fairness of the Settlement?" The website advises members of the proposed settlement class as follows: "**Note:** The date and time of the fairness hearing are subject to change by Court Order. Any changes will be posted at this website and through the Court's Public Access to Court Electronic Records (PACER) system at

<https://ecf.ilnd.uscourts.gov>.” www.PrescriptionCallSettlement.com at FAQ #20. (Emphasis in original).

3. On Thursday, July 23, 2015, Defendant’s lead counsel in this matter, Bradley J. Andreozzi, suffered a complete distal biceps tendon rupture, in which the biceps muscle was severed from the bone at the elbow. Mr. Andreozzi was sent by his primary care physician to the Northwestern Memorial Hospital Emergency Room that day and treated with narcotic pain killers. He was examined by an orthopedic surgeon, Dr. Stephen Gryzlo, on Monday July 27, 2015, and the diagnosis was confirmed by MRI imaging. Dr. Gryzlo has advised that surgery is necessary to reattach the tendon and that such surgery should be done as soon as the condition of the arm permits in order to have the best chance for success. The MRI revealed that the biceps tendon has already retracted up the arm significantly and that process will continue, potentially complicating the surgery if the surgery is delayed unduly. Dr. Gryzlo is scheduling the surgery for this coming week.

4. Mr. Andreozzi has served as Defendant’s lead counsel throughout this matter and is the attorney in the best position to answer any questions the Court may have for Defendant at final approval hearing. If necessary, Mr. Andreozzi will delay the surgery until after the hearing in order to attend the hearing.

5. But if the Court is able to adjourn the hearing by one or two weeks, Mr. Andreozzi will be able to have the surgery in the coming week and also participate in the final approval hearing.

6. Class Counsel has no objection to this request. Counsel have conferred and both Class Counsel and Defendant’s counsel are available for a rescheduled hearing at any time during the August 12-21, 2015 period, except for the mornings of August 13 and 20.

7. If the hearing is rescheduled, counsel will make sure that notice of the new date is provided to the proposed Settlement Class on the settlement website, as well as through the PACER system, and will directly notify any objector or his or her counsel who indicated an intention to attend the hearing.

8. No prior requests for adjournment of the final approval hearing have been made in this case. This request is not made for purposes of delay. Indeed, the motion for final approval of the settlement was filed by Class Counsel yesterday, as scheduled.

WHEREFORE, for the foregoing reasons, Defendant Walgreen Co. respectfully requests that this Honorable Court reschedule the final approval hearing by one or two weeks.

Dated: July 30, 2015

Respectfully submitted,

/s/ Bradley J. Andreozzi

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